



July, 1979

SUMMARY REPORT:
MINIMUM OPERATING SCHEDULE
NONCOMMERCIAL EDUCATIONAL FM

NOTE: FCC Docket 20735 includes a number of different areas affecting noncommercial educational FM stations. A major portion of this docket dealt with technical requirements and changes for 10-watt FM stations. These are discussed in a separate IBS Summary Report. The minimum operating schedule rules, however, apply to all noncommercial educational FM stations, regardless of their power. Some confusion has resulted from the originally-adopted requirements and later changes. This report is an attempt to summarize the new requirements as they now stand.

Because of the rapidly diminishing amount of space remaining open in the noncommercial educational portion of the FM band (88.1 - 91.9 MHz), the FCC has adopted a number of measures designed to achieve a higher utilization of these frequencies. One of the changes involves imposition of a minimum operating schedule, a requirement which previously applied to commercial radio stations, but never before for noncommercial educational stations. In line with the Commission's "use it or lose it" approach, a relatively low initial minimum was set, with the expectation that standards may become higher at some later date.

Two separate and distinct levels have been established. The first and least difficult to meet is the minimum schedule required in order to maintain your station's license:

" 73.561 (a) All noncommercial educational FM stations will be licensed for unlimited time operation except those stations operating under a time sharing arrangement. Beginning January 1, 1979, all noncommercial educational FM stations are required to operate at least 36 hours per week, consisting of at least 5 hours of operation per day on at least 6 days of the week; however, stations licensed to educational institutions are not required to operate on Saturday or Sunday or to observe the minimum operating requirement during those days designated on the official school calendar as vacation or recess periods."

Note that this new requirement went into effect January 1, 1979, so your station should already be meeting the minimum hours indicated. If you are licensed to an educational institution, you are not required to operate on Saturday or Sunday, but you still must meet the weekly minimum total of 36 hours. Simple mathematics will make it obvious that you must operate more than the 5 hour daily minimum on one or more of those days in order to reach this minimum 36 hour weekly total.

Most school, college, and university-based stations should have little problem in meeting these daily or weekly minimums during the normal academic year:

[more]

THE INTERCOLLEGIATE BROADCASTING SYSTEM, INC.

BOX 592, VAILS GATE, N. Y. 12584

914-565-6710

Initially, the new rules required a minimum 6 day/week operation, but this was reduced to a Monday-Friday minimum for stations licensed to educational institutions. Allowances were also made to permit these stations to leave the air during official school vacation or recess periods. This would seem to meet the special situation encountered by these school, college, and university-based stations.

However, in the Memorandum Order and Opinion released January 11, 1979, the FCC raised a possible problem when it interpreted those schools, colleges, and universities who conduct Summer sessions as not being officially on vacation:

" We are not persuaded, however, by the suggestion that we exempt summer sessions and other times when the school is in operation but a majority of full-time students may not be in attendance. Unlike recess periods, the staff is on hand in summer sessions, the buildings are open, and at least some (if not all) of the students are on hand. We cannot agree that an exemption should automatically apply to these cases and we will reject that part of the petitions."

If we are to take the Commission at its word, if your school, college, or university conducts any summer sessions, intersessions, or special programs during a time when we would ordinarily consider the school, college, or university to be on vacation or recess, its radio station would be required to maintain the minimum operating schedule indicated in 73.561 (a).

If your station usually goes off-the-air for the summer, but your school does hold summer sessions, the only way you can legally remain off-the-air and maintain your station license is to apply for an individual station waiver of 73.561(a). (Remember, though the FCC says it won't automatically grant an exemption, it will consider each individual situation.)

If you request a waiver for your station, you'll have to make a good case for your station's particular circumstances, and why it would be in the public interest to grant a waiver of that provision of the rules for your situation.

Listed below are some of the kinds of points you may want to consider in such a waiver request if they apply to your situation. Some may be valid only in certain cases, so consider them carefully before using them. If you do use one or more, make sure you adapt it to your individual circumstances, presenting as much factual supporting data as you can to strengthen your request.

1. BUDGET - prepared before rule went into effect - does not include summer operating expenses; will plan for compliance next year.
2. BUILDING ACCESS - though summer sessions will take place, building housing radio station will not be open for use.
3. LIMITED REQUEST - waiver request is only for this summer with planning now to meet requirement next year. (Commission is hesitant to grant long-term or blanket waivers; is more likely to consider limited-term waiver).
4. SIZE OF SUMMER SESSION - extremely small compared with normal academic year; not enough students to properly staff station for even minimum hours

required; studies more concentrated than normal academic term; audience both on and off-campus significantly diminished during summer

5. SERVICE TO COMMUNITY - will be provided by other stations in area during your off-air time
6. SUMMER SESSIONS NOT CONTINUOUS - there may be periods of time over the summer between schedule sessions when school is shut down and station would not be required to broadcast; Intermittent schedule would not be in the public interest where station went on-off-on-off, etc.
7. PUBLIC INTEREST - if station is forced to operate during summer to retain its license, requirement couldn't be met, station would have to forfeit its license and public would be deprived of service. Alternatively, if station struggles to maintain level of service during Summer at barest minimum to meet FCC requirements, program service may also be at a minimal level and not up to the usual standards of community service provided by the station during the normal academic year. Public interest considerations would therefore be better served through grant of waiver this year, particularly with eye towards meeting Commission requirements in future years.

There is no FCC form for making waiver requests. Put your request in the form of a letter with supporting data and address it to:

Federal Communications Commission
Attn: Jonathan David, Policy and Rules Division
1919 M Street, N.W.
Washington, D.C. 20554

So far, our discussion has dealt with the minimum operating schedule you must maintain in order to continue to hold your station license. But there is a higher level which must be met by 1/1/80 if you want to avoid vulnerability for a possible share time application being filed for your station's frequency:

"73.561(b) - Effective January 1, 1980, all stations, including those meeting the requirements of paragraph (a) of this section, but which do not operate 12 hours per day each day of the year, will be required to share use of the frequency upon the grant of an appropriate application proposing such share time arrangement. Such applications shall set forth the intent to share time and shall be filed in the same manner as are applications for new stations. They may be filed at any time, but in cases where the parties are unable to agree on time sharing, action on the application will be taken only in connection with the renewal of application for the existing station. In order to be considered for this purpose, such an application to share time must be filed no later than the deadline for filing applications in conflict with the renewal application of the existing licensee. "

In simple terms, if your station is on the air less than 12 hours/day, every day of the year, it is vulnerable to a share time application for its frequency at its first renewal in 1980 or thereafter. Share time means a sharing of time on that specific frequency, and not necessarily any sharing of equipment or studio facilities, unless it is so agreed upon by the parties involved.

Whether or not your station would have a share time application filed against it depends not only on your meeting the 12 hour/day minimum, but also on the availability of room on the noncommercial FM dial in your area. If the band is very crowded, a share time application may be the only method a new group has of getting a station on the air. However, if there is ample room to establish a new station on another frequency, the new group would usually prefer the full-time opportunity it presents, and there would be much less chance of a share time application being filed against your frequency.

This share time arrangement may in fact be a desirable option in some cases. For example, if a station cannot operate 'year round itself, it might seek out a cooperative arrangement with another local educational institution to help staff station operations during vacation periods, either under the existing licensee's jurisdiction, or under a share time arrangement with a second licensee.

Share time arrangements are not always the easiest thing to live with, particularly when special events programming is involved and the event to be covered occurs during the "other" licensee's air time. Dividing the times into a workable schedule that is equitable for both parties is also not very easy to do. But, share time is in existence in a number of cases, and it can work.

If at all possible, however, it is best for each station to meet these minimum requirements itself, to avoid the possibility of a share time arrangement being imposed. Stations have utilized a number of scheduling, mechanical, and electronic devices to aid them in filling-out their schedules. Included are the use of pre-taped programming, pre-planned repeat broadcasts of popular and/or meaningful programs, semi-automation for limited time periods, weekend and holiday specials, recruiting and utilizing local community volunteers to supplement your student staff, etc.

SUMMARY OF REQUIREMENTS:

Minimum (effective 1/1/79): for stations licensed to educational institutions:

5 hours/day, Monday thru Friday, minimum weekly total: 36 hours, vacations exempt

To Avoid Share Time (effective 1/1/80):

12 hours/day, every day of the year

Remember, these are minimum levels; stations are certainly encouraged to operate over and above these minimums according to their resources.

IF YOU HAVE ANY QUESTIONS,.....

we're here to help at IBS. You can reach us by mail or phone:

IBS

Box 592

Vails Gate, NY 12584

(914) 565-6710

IBS member-stations receive a regular flow of newsletters, reports, and other publications explaining new rules changes, proposals and containing other information of interest and practical use to school and college radio stations. For membership information and an application for your station or group, write or call IBS at the address or phone number shown above.